UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HARRY THEODORE JOSIFIDIS,

Plaintiff,

-- against --

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL; DOMINICK DIGENNARO, SPECIAL INVESTIGATOR, SHIELD NO. 1105; TRAVIS HILL, SPECIAL ASSISTANT ATTORNEY GENERAL; THOMAS BURKE, SUPERVISING SPECIAL INVESTIGATOR; DAVID RYAN, SPECIAL INVESTIGATOR; TWAN V. BOUNDS, SPECIAL ASSISTANT ATTORNEY GENERAL; SETH FARBER, SPECIAL ASSISTANT ATTORNEY GENERAL; VITO SPANO, CHIEF; ALBERT T. MAIORANO JR., SPECIAL INVESTIGATOR; NATALIE SOTNIKOVA, SPECIAL INVESTIGATOR; ARELIS RESTITUYO, SPECIAL INVESTIGATOR; JOSEPH SCALOGNA, SPECIAL INVESTIGATOR; JONATHAN ROMANO, SPECIAL AUDITOR INVESTIGATOR; FERN COHEN DEPAULO, SUPERVISING INVESTIGATOR; STEVEN SOO HOO, DEA SPECIAL AGENT; BARBARA YANOFSKY, DEA SPECIAL AGENT; JOHN DOES 1-8, PERSONS WORKING FOR OR EMPLOYED BY NEW YORK STATE,

Defendants.

Index No.: 16-CV-1944 (RRM) (RML)

NOTICE OF MOTION

COUNSELORS:

PLEASE TAKE NOTICE that upon the annexed Declaration of Philip V. Aiello, Esq. affirmed the 7th day of March, 2017, and the Memorandum of Law annexed thereto, the undersigned moves this Court, Honorable Roslynn R. Mauskopf, United States District Judge, pursuant to Local Civil Rule 1.4, on the hearing of the motion presently returnable at the United States Eastern District Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the ___ day of March, 2017 at _____ a.m./ p.m. of that date, for an order granting Ateshoglou & Aiello P.C.'s motion to withdraw as Plaintiff's counsel.

Dated: New York, New York
March 7, 2017

Yours, etc.,

/s/

Philip V. Aiello (PA – 2908)
ATESHOGLOU & AIELLO, P.C.
Attorneys for Plaintiff
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HARRY THEODORE JOSIFIDIS (via First Class Mail)
303 East 57th Street, Apt. 25F
New York, New York 10022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HARRY THEODORE JOSIFIDIS,

Plaintiff,

-- against --

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL; DOMINICK DIGENNARO, SPECIAL INVESTIGATOR, SHIELD NO. 1105; TRAVIS HILL, SPECIAL ASSISTANT ATTORNEY GENERAL; THOMAS BURKE, SUPERVISING SPECIAL INVESTIGATOR; DAVID RYAN, SPECIAL INVESTIGATOR; TWAN V. BOUNDS, SPECIAL ASSISTANT ATTORNEY GENERAL; SETH FARBER, SPECIAL ASSISTANT ATTORNEY GENERAL; VITO SPANO, CHIEF; ALBERT T. MAIORANO JR., SPECIAL INVESTIGATOR; NATALIE SOTNIKOVA, SPECIAL INVESTIGATOR; ARELIS RESTITUYO, SPECIAL INVESTIGATOR; JOSEPH SCALOGNA, SPECIAL INVESTIGATOR; JONATHAN ROMANO, SPECIAL AUDITOR INVESTIGATOR; FERN COHEN DEPAULO, SUPERVISING INVESTIGATOR; STEVEN SOO HOO, DEA SPECIAL AGENT; BARBARA YANOFSKY, DEA SPECIAL AGENT; JOHN DOES 1-8, PERSONS WORKING FOR OR EMPLOYED BY NEW YORK STATE,

Defendants.

Index No.: 16-CV-1944
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MEMORANDUM OF LAW

Pursuant to Eastern District of New York Local Civil Rule 1.4, Ateshoglou & Aiello, P.C. ("AA") respectfully submits this memorandum of law in support of its motion to withdraw as counsel of record for the plaintiff, HARRY THEODORE JOSIFIDIS (hereinafter "Plaintiff"), and for all dates to be briefly adjourned pending the resolution of this motion and in the event that this application is granted.

PRELIMINARY STATEMENT AND FACTS

As more fully set forth in the declaration of Philip V. Aiello, Esq., AA seeks leave to withdraw as counsel of record for Plaintiff because AA has recently merged with the firm of McManus Adams & Apostolakos. As a result of certain agreements made during the merger, the new firm of McManus Ateshoglou Adams Aiello & Apostolakos PLLC is unable to continue in its representation of the Plaintiff. For these reasons, AA respectfully requests that this Court grant their motion to withdraw as attorneys of record for Plaintiff.

Prior to making this motion, this firm discussed the upcoming merger with Plaintiff and attempted to assist him in finding new counsel. However, our attempts were fruitless and so Plaintiff was advised via email dated February 20, 2017 that he should seek new counsel. Plaintiff indicated that he understood the situation and had no objection to finding new counsel.

No prior application for the relief requested herein has been made.

Finally, as a courtesy to Plaintiff, AA is not asserting a retaining or charging lien in connection with this matter.

ARGUMENT

I. The Rules of Professional Conduct and Local Rule 1.4 Relieve an Attorney of Record by Order of Court

Under Local Civil Rule 1.4 of the Local Rules of the United States District Courts for the Eastern District of New York:

> An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the Court granted by order. Such an order may be granted only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar.

Accordingly, "[w]hen considering whether to grant a motion to dismiss, district courts must thus analyze two factors: the reasons for withdrawal and the impact of the withdrawal on the timing of the proceeding." *Blue Angel Films, Ltd. v. First Look Studios, Inc.*, No. 08 Civ. 6469 (DAB)(JCF), 2011 WL 672245, at *1 (S.D.N.Y. Feb. 17, 2011).

II. Withdrawal of Counsel Will Not Prejudice Plaintiff

Where discovery has not yet closed and a case is not "on the verge of trial readiness," withdrawal of counsel is unlikely to cause either prejudice to the client or such substantial disruption to the proceedings as to warrant a denial of leave to withdraw. *Winkfield v.*

Kirschenbaum & Phillips, P.C., No. 12 Civ. 7424 (JMF), 2013 WL 371673, at *1 (S.D.N.Y. Jan. 29, 2013) (quoting *Blue Angel Films*, 2011 WL 672245, at *2); *accord Karimian v. Time Equities, Inc.*, No. 10 Civ. 3773 (AKH) (JCF), 2011 WL 1900092, at *3 (S.D.N.Y. May 11, 2011); see also *Furlow v. City of New York*, No. 90 Civ. 3956 (PKL), 1993 WL 88260, at *2 (S.D.N.Y. Mar. 22, 1993) (where document discovery was complete but depositions had not been taken, withdrawal permissible because "this action is not trial ready and resolution of this matter will not be delayed substantially by counsel's withdrawal at this juncture").

Plaintiff herein will not be prejudiced by AA's withdrawal as counsel. Plaintiff's case is still in the initial stages of discovery. Moreover, AA has requested a brief continuance of all dates; therefore, new counsel retained by Plaintiff would not be forced to 'hit the ground running' but would instead have ample time to familiarize himself with the entire record in the case and thus prepare himself to proceed with discovery.

CONCLUSION

For the foregoing reasons, AA respectfully requests that the Court grant its motion to withdraw as counsel of record for Plaintiff and briefly stay all proceedings in the case.

Dated: New York, New York
March 7, 2017

Ateshoglou & Aiello, P.C.

By: /s/
Philip V. Aiello (PA – 2908)

Dated: New York, New York
March 7, 2017

/s/
Philip V. Aiello (PA-2908)
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